

ORDINANCE NO. 52-2008

**AN ORDINANCE IMPOSING THE
RICHMOND FOOD AND BEVERAGE TAX**

WHEREAS, IC 6-9-38 ("Act"), authorizes the fiscal body of a unit in Wayne County ("County"), after January 1 but before August 1 of any year, to adopt an ordinance to impose an excise tax known as the unit's food and beverage tax ("Food and Beverage Tax") on transactions described in IC 6-9-38 (Food and Beverage Transactions) that occur anywhere in the unit;

Deleted:

WHEREAS, the Act provides that the rate of the Food and Beverage Tax imposed one percent (1%) of the gross retail income on the Food and Beverage Transaction that occurs in the unit;

WHEREAS, the Act provides that the Food and Beverage Tax is to be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5 and the entire amount of revenues received from the Food and Beverage Tax (Tax Revenues) is to be shall be paid monthly by the treasurer of state on warrants issued by the treasurer of state to the county in which the unit that imposed the tax is located;

WHEREAS, the Act provides that the county auditor shall establish a local food and beverage tax revenue fund for each unit in the county that imposes a tax in to which all amounts received monthly from the treasurer are to be deposited;

WHEREAS, the fiscal body of a unit other than the County may not adopt an ordinance until after July 31, 2006, unless the County Council adopts a resolution to relinquish its exclusive authority to adopt such an ordinance;

WHEREAS, the County Council has previously adopted a resolution relinquishing its exclusive authority and the Mayor of the City of Richmond ("City") has received a certified copy of that resolution;

WHEREAS, pursuant to IC 6-9-38, the City is a unit located in Wayne County;

WHEREAS, the City now desires to adopt an ordinance to impose a Food and Beverage Tax in accordance with the Act in order to assist in the financing of a conference center in the City;

WHEREAS, the City has conducted a public hearing in accordance with the Act;

WHEREAS, the Act provides that if the City incurs indebtedness payable from the Food and Beverage Tax, the Food and Beverage Tax terminates two (2) years after the retirement of the debt financed by the Food and Beverage Tax; and

WHEREAS, the Act provides that if no bonds, leases, obligations, or other evidences of indebtedness of City that are payable from the Food and Beverage Tax are outstanding, the Common Council may adopt an ordinance to repeal the Food and Beverage Tax;

WHEREAS, the City desires to delay collection of the Food and Beverage Tax until the financing is actually completed and closed; and

WHEREAS, if the proposed financing is not completed, the City desires to provide for the termination of the Food and Beverage Tax;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF RICHMOND, INDIANA:

Section 1. (a) The Richmond Food and Beverage Tax (City Food and Beverage Tax) is hereby imposed on Food and Beverage Transactions at the rate of one percent (1%) of the gross retail income of the Food and Beverage Transactions occurring anywhere in the City.

(b) The City Food and Beverage Tax shall apply to Food and Beverage Transactions occurring on and after January 1, 2009.

(c) Transactions taxed:

(a) Except as provided in subsection (c) below, a food and beverage tax imposed pursuant to this ordinance applies to any transaction in which food or a beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the unit in which the tax is imposed; and
- (3) by the retail merchant for consideration. If both a county and another unit located in the county impose a tax under this chapter, the tax imposed by the county does not apply within the territory of the other unit imposing the tax.

(b) Transactions described in subsection (c)(a)(1) above include transaction in which food or a beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverages sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(c) A food and beverage tax imposed under this ordinance does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed under IC 6-2.5.

Section 2. Pursuant to the Act, the City Food and Beverage Tax shall be imposed, paid, and collected in the same manner that the State gross retail tax is imposed, paid, and collected under IC 6-2.5.

Section 3. (a) There is hereby established a City Food and Beverage Tax Fund into which the Controller shall deposit all Tax Revenues from the City Food and Beverage Tax (City Tax Revenues) received monthly from the County Auditor.

(b) Revenues in the City Food and Beverage Tax Fund shall be used by the City for any purpose permitted under the Act, including the pledge of City Tax Revenues to the payment of bonds, leases, other obligations or other evidences of indebtedness in accordance with IC 5-1-14-4.

Section 4. The Mayor shall, upon passage, immediately send a certified copy of this Ordinance to the County Auditor and to the Commissioner of the Department of State Revenue.

Section 5. (a) If there are no outstanding obligations of the City for which a pledge of the City Tax Revenues has been made pursuant to the Act, the Common Council may adopt an ordinance after January 1 but before September 1 of any year to repeal this Ordinance.

(b) The City Food and Beverage Tax terminates on the date that is no earlier than two years after the retirement of any bonds, leases, obligations or other evidences of indebtedness payable from the City Food and Beverage Tax.

Section 6. (a) The City has been presented a unique opportunity to enter into a public-private partnership to develop conference facilities that will serve to develop and promote the convention and tourism industry in the County.

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(b) The City is uniquely positioned to develop and promote the County's convention and tourism industry due to its geographic location as a gateway to the state and the presence of at least two (2) national highways traversing its boundaries.

(c) Collection of the City Food and Beverage Tax will not commence until financing, payable in whole or in part from the City Food and Beverage Tax, has been closed. The City will provide written notice to the Indiana Department of State Revenue not less than two months' prior to the date on which collection of the Food and Beverage Tax would commence. The Food and Beverage Tax will commence on the first day after the last day of the month that succeeds the second month in which the Department receives written notice from the City.

Section 7. This ordinance shall be in full force and effect on January 1, 2009, and after its passage and execution by the Mayor.

Deleted: Section 8. If no bonds, leases, obligations or other evidences of indebtedness payable from the City Food and Beverage Tax have been issued or executed by _____, 2008, this Ordinance shall be rescinded and shall no longer be in effect.¶

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Passed and adopted by the Common Council of the City of Richmond this ____ day of July, 2008.

Larry Parker, President
Common Council of the City of Richmond

ATTEST: _____, City Clerk
(Karen Chasteen)

Presented by me to the Mayor of the City of Richmond, Indiana, this ____ day of July, 2008, at 9:00 a.m.

_____, City Clerk
(Karen Chasteen)

Signed and Approved by me, Sarah L. Hutton, Mayor of the City of Richmond, Indiana, this ____ day of July, 2008, at 9:05 a.m.

_____, Mayor
(Sarah L. Hutton)

ATTEST: _____, City Clerk
(Karen Chasteen)

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